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CERTIFICATE.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 565.

PLYMOUTH CORDAGE COMPANY, A. B. KELLEY, NEWTON WAGON COMPANY, AND MAGGIE O'BRIEN

vs.

J. A. SMITH AND CLINTON F. IRWIN, JUDGE.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

FILED JANUARY 26, 1904.

(19,216.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., FEBRUARY 2, 1904.

1 United States Circuit Court of Appeals, Eighth Circuit.

In re PLYMOUTH CORDAGE COMPANY, A. B. KELLEY, NEWTON WAGON COMPANY, and MAGGIE O'BRIEN, Petitioners. No. 40, Original.

On petition to revise in matter of law certain proceedings had in the district court of Kingfisher county, Oklahoma.

The United States circuit court of appeals for the eighth circuit, sitting at the city of St. Louis, Missouri, on the twenty-second day of January, 1904, certifies that from the record on file in the above entitled cause, which is pending in this court on an original petition to revise in matter of law certain proceedings in bankruptcy had in the district court of Kingfisher county, Oklahoma, the following is made to appear:

(1.) By section 24 of the national bankruptcy law, entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898. (30 Stat. 544) it is provided:

"SEC. 24. Jurisdiction of appellate courts.—*a.* The Supreme Court of the United States, the circuit courts of appeals of the United States, and the supreme courts of the Territories, in vacation in chambers and during their respective terms, as now or as they may be hereafter held, are hereby invested with appellate jurisdiction of controversies arising in bankruptcy proceedings from the courts of bankruptcy from which they have appellate jurisdiction in other cases. The Supreme Court of the United States shall exercise a like jurisdiction from courts of bankruptcy not within any organized circuit of the United States and from the supreme court of the
2 District of Columbia. *b.* The several circuit courts of appeal shall have jurisdiction in equity, either interlocutory or final, to superintend and revise in matter of law the proceedings of the several inferior courts of bankruptcy within their jurisdiction. Such power shall be exercised on due notice and petition by any party aggrieved." (3 U. S. Comp. Stat., 3431)

(2.) By an order of the Supreme Court of the United States, entered May 11, 1891, it is provided "that under section 15 of the act approved March 3, 1891 entitled "An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," * * * the territories of * * * Oklahoma * * * are assigned to the eighth judicial circuit." (139 U. S. 707.)

(3.) On June 15, 1903, the petitioners herein Plymouth Cordage Company, A. B. Kelley, Newton Wagon Company and Maggie O'Brien, filed in this court a petition to superintend and revise in matter of law the proceedings of the district court of Kingfisher county, Oklahoma, in the following particulars:

(*a.*) On March 23, 1903, a petition was pending in said court to adjudge J. A. Smith an involuntary bankrupt. The district court on that date permitted three creditors to withdraw from said petition.

(*b.*) On April 6, 1903, the district court of Kingfisher county, Oklahoma, sustained a motion to dismiss a petition in involuntary bankruptcy theretofore filed against J. A. Smith.

(*c.*) On April 6, 1903, the district court of Kingfisher county, Oklahoma, denied the prayer of certain creditors of J. A. Smith asking leave to join in the petition in involuntary bankruptcy against J. A. Smith.

(*d.*) On April 14, 1903, the district court of Kingfisher county, Oklahoma, refused to permit certain creditors of J. A. Smith to file a motion asking the court to set aside the order of April 6, 1903, dismissing the petition in involuntary bankruptcy against
3 J. A. Smith.

(4.) The petitioners herein pray this court to set aside each and all of the foregoing orders so entered by the district court of Kingfisher county, Oklahoma.

And the said United States circuit court of appeals for the eighth circuit further certifies that the following question of law, among others, arises and is presented in this case and that the decision thereof is indispensable to a correct decision of the cause, and to that end it desires the instruction of the Supreme Court of the United States upon the following question and proposition of law:

Does the United States circuit court of appeals for the eighth circuit have the jurisdiction to superintend and revise in matter of law the proceedings of the district court of Kingfisher county, Oklahoma, in bankruptcy?

In witness whereof, the undersigned judges, holding the said United States circuit court of appeals for the eighth circuit, have hereunto set their hands this 22nd day of January, A. D. 1904, at St. Louis, Missouri, and ordered that the foregoing certificate be filed in said United States circuit court of appeals and by the clerk of said court duly forwarded to the Supreme Court of the United States.

WALTER H. SANBORN,
AMOS M. THAYER,
WILLIAM C. HOOK,
Judges of the United States Circuit Court of Appeals for the Eighth Circuit.

4 United States Circuit Court of Appeals, Eighth Circuit.

I, John D. Jordan, clerk of the United States circuit court of appeals for the eighth circuit, do hereby certify that the foregoing certificate in the matter of Plymouth Cordage Company, A. B. Kelley, Newton Wagon Company and Maggie O'Brien, petitioners,

No. 40 original, December term, 1903, was duly filed and entered of record in my office by order of said circuit court of appeals and as directed by said court, the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

In testimony whereof, I hereunto subscribe my name and affix the seal of said United States circuit court of appeals for the eighth circuit, at the city of St. Louis, Missouri, this twenty-second day of January, A. D. 1904.

[Seal United States Circuit Court of Appeals, Eighth Circuit.]

JOHN D. JORDAN,
Clerk United States Circuit Court of Appeals
for the Eighth Circuit.

5 [Endorsed:] U. S. circuit court of appeals, eighth circuit. December term, 1903. No. 40 Original. *In re* Plymouth Cordage Company, *et al.*, petitioners. Certificate of question to the Supreme Court of the United States. Filed Jan. 22 1904 John D. Jordan, clerk.

Endorsed on cover: (Certificate.) File No. 19,216. U. S. C. C. of appeals, 8th circuit. Term No. 565. Plymouth Cordage Company, A. B. Kelley, Newton Wagon Company, and Maggie O'Brien *vs.* J. A. Smith and Clinton F. Irwin, judge. Filed January 26th, 1904. File No. 19,216.

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JAMES H. McKENNEY,
Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 565.

PLYMOUTH CORDAGE COMPANY ET AL.,

vs.

J. A. SMITH ET AL.

MOTION TO ADVANCE CERTIFICATE AND TAKE THE SAME AS SUBMITTED.